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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/864,711      | 05/23/2001  | Michael G. Walker    | PB-0008-1 CIP       | 3247             |

27904 7590 06/08/2004

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WILMINGTON, DE 19880

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 06/08/2004

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|---------------------------------|-------------|---|---------------------|

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| EXAMINER |
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| ART UNIT | PAPER |
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060504

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**Commissioner for Patents**

Art Unit: 1631

The appeal brief file March 19, 2004 is defective in that it presents as evidence a reference not previously of record (viz. Brenner et al Proc. Natl. Acad. Sci. USA 95: 6073 (1998)). Entry of new evidence in an application on appeal is not a matter of right (MPEP 1207) and must be submitted as a paper separate from the appeal brief. In addition, any amendment, affidavit, or other new evidence on appeal is governed by 37 CFR §§ 1.116 and 1.195 (MPEP 1207). Since none of these conditions has been complied with, the appeal brief is defective.

Appellant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

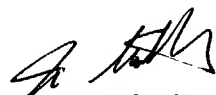
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (571) 272-0719. The fax phone number for Examiner Martinell's desktop workstation is (571) 273-0719. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to [james.martinell@uspto.gov](mailto:james.martinell@uspto.gov). Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-0722.

**PLEASE NOTE THE NEW FAX NUMBER**

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

  
**James Martinell, Ph.D.**  
**Primary Examiner**  
**Art Unit 1631**

6/5/04